

Prob 12B

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

**PETITION TO MODIFY THE CONDITIONS OR TERM OF SUPERVISION  
WITH CONSENT OF THE OFFENDER**

*(Probation Form 49, Waiver of Hearing, is on file)*

**Offender Name:** Tracy Marlene GARIBAY

**Docket Number:** 1:02CR05374-01

**Offender Address:** Modesto, California

**Judicial Officer:** Honorable Oliver W. Wanger  
United States District Judge  
Fresno, California

**Original Sentence Date:** 04/06/2000

**Original Offense:** 21 USC 846 - Conspiracy, to wit: Possession With  
Intent to Distribute 100 Kilograms or More of Marijuana,  
21 USC 841(b)(1)(B)  
(CLASS B FELONY)

**Original Sentence:** 30-months custody of the Bureau of Prisons; 4-year  
term of supervised release; \$100 special assessment.

**Special Conditions:** Participate in a program for substance abuse, which  
may include testing to determine whether the defendant  
has reverted to the use of controlled substances.

**Type of Supervision:** Supervised release

**Supervision Commenced:** 07/19/2002

**Assistant U.S. Attorney:** To be assigned **Telephone:** (559) 498-7272

**Defense Attorney:** To be assigned **Telephone:** (559) 487-5561

**Other Court Action:**

**10/10/2002:** Jurisdiction transferred from the District of New Mexico  
to the Eastern District of California.

**RE: Tracy Marlene GARIBAY**  
**Docket Number: 1:02CR05374-01**  
**PETITION TO MODIFY THE CONDITIONS OR TERM**  
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### **PETITIONING THE COURT**

#### **To modify the conditions of supervision as follows:**

1. The defendant shall comply with the conditions of home detention for a period of 30 consecutive days to commence when directed by the probation officer. During this time, the defendant will remain at place of residence except for employment and other activities approved in advance by the defendant's probation officer. The defendant will maintain telephone service at her place of residence without an answering device, call forwarding, a modem, caller ID, call waiting, or a cordless telephone for the above period.

At the discretion of the probation officer, the defendant shall wear an electronic monitoring device and follow electronic monitoring procedures as specified by the probation officer. The defendant shall pay the cost of electronic monitoring as determined by the probation officer.

**Justification:** The offender released from the Bureau of Prisons on July 19, 2002, to begin her 4-year term of supervised release. Since Ms. Garibay resided in Modesto, California, jurisdiction of her case was transferred to the Eastern District of California from the District of New Mexico on October 10, 2002. As a special condition of supervision, the offender was required to participate in random drug testing, which she completed successfully without a positive test result. Ms. Garibay was compliant with all standard conditions of supervision until July 2004, when she quit submitting her monthly report forms. The probation officer was not initially aware of her non-compliance. During September 2005, the probation officer went to the offender's last known residence and

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learned the home was vacant. A message left on Ms. Garibay's voice mail was returned the next day, and an office appointment scheduled. The offender reported she had no valid excuse for not submitting her monthly report forms, or for changing her address without informing the probation officer, but did cite marital difficulties (verified by the probation officer), having another child, and working full-time.

Due to the above, the probation officer respectfully requests the offender's term of supervised release be modified to include a 30-day period of home confinement, at the direction of the probation officer. The probation officer believes this interim sanction is punitive enough to address the offender's violation behavior, and still allow Ms. Garibay to work full-time and care for her family. The probation officer will also require the offender to submit her monthly report forms in person for the next five months. Ms. Garibay is in agreement with the requested modification of her conditions of supervised release.

Respectfully submitted,

/s/ Casey Horner, Sr.

**CASEY HORNER, SR.**  
**Senior United States Probation Officer**  
Telephone: (209) 574-9481

**DATED:** January 24, 2006  
Modesto, California  
CKH:lr

**REVIEWED BY:** /s/ Deborah A. Spencer  
**DEBORAH A. SPENCER**  
**Supervising United States Probation Officer**

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**THE COURT ORDERS:**

- ( X ) Modification approved as recommended.
- ( ) Modification not approved at this time. Probation Officer to contact Court.
- ( ) Other:

January 25, 2006

/s/ OLIVER W. WANGER

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**Date**

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**Signature of Judicial Officer**

cc: United States Probation  
Assistant United States Attorney (to be assigned)  
Assistant Federal Defender (to be assigned)  
Defendant  
Court File

Attachment: Presentence Report (Sacramento only)